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9 Attorney for Defendants

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 Jaime Reborn,

13 Case No:

14 Plaintiff,

15 ANSWER

16 v.

17 University of Phoenix, Apollo Group and  
18 Does 1-40

19 Defendants.

20 Defendants APOLLO GROUP, INC. and UNIVERSITY OF PHOENIX, INC.  
21 (collectively referred to herein as "the University"), hereby answers Plaintiff Jaime Reborn's  
22 ("Plaintiff") Complaint as follows:

23 1. Upon information and belief, the University admits the allegations contained in  
24 Paragraph 1 of Plaintiff's Complaint.

25 2. The University admits the allegations contained in Paragraph 2 of Plaintiff's  
26 Complaint.

27 3. Answering paragraph 3 of Plaintiff's Complaint, the University admits that  
28 Plaintiff began taking online classes at the University of Phoenix on January 9, 2007 and that he  
was enrolled in the DM/IST program. The University denies each remaining allegation contained  
in this Paragraph.

4. The University admits the allegations contained in Paragraph 4 of Plaintiff's  
Complaint.

5. There is no Paragraph 5.

1       6. Answering paragraph 6 of Plaintiff's Complaint, the University admits that a  
2 student must identify a Chairperson for his Dissertation Committee in order take the DOC/722  
3 Doctoral Seminar II class. The University further admits that Plaintiff initially selected Dr.  
4 Shannon Hilliker-VanStrander to serve as the Chairperson of his Dissertation Committee. The  
5 University denies the remaining allegations in this Paragraph.

6       7. Answering paragraphs 7 of Plaintiff's Complaint, the University admits that "[t]he  
7 DOC/722 Doctoral Seminar II class is a required course." The University further admits that Dr.  
8 Shannon Hilliker-VanStrander served as Chairperson of Plaintiff's dissertation for a period of  
9 time. The University denies the remainder of the allegations in this Paragraph.

10      8. Answering paragraph 8 of Plaintiff's Complaint, the University denies the  
11 allegations contained in this Paragraph.

12      9. Answering paragraph 9 of Plaintiff's Complaint, the University admits that  
13 Plaintiff took a course entitled DOC/733 with Dr. Hilliker-VanStrander in October 2009. The  
14 University denies the remaining allegations in this Paragraph.

15      10. Answering paragraph 10 of Plaintiff's Complaint, the University is without  
16 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
17 this paragraph, and on that basis denies the same.

18      11. Answering paragraph 11 of Plaintiff's Complaint, the University admits that the  
19 Plaintiff took a course entitled DOC/733A Doctoral Dissertation in June 2010 with Dr. Hilliker-  
20 VanStrander. The University denies the remaining allegations in this Paragraph.

21      12. Answering paragraph 12 of Plaintiff's Complaint, the University admits that the  
22 Plaintiff took a course entitled DOC/733B Doctoral Dissertation in August 2010 with Dr.  
23 Hilliker-VanStrander. The University denies the remaining allegations in this Paragraph.

24      13. Answering paragraph 13 of Plaintiff's Complaint, the University admits that the  
25 Plaintiff took a course entitled DOC/733B Doctoral Dissertation in December 2010 with Dr.  
26 Hilliker-VanStrander. The University denies the remaining allegations in this Paragraph.

27      14. Answering paragraph 14 of Plaintiff's Complaint, the University admits that the  
28 Plaintiff took a course entitled DOC/733B Doctoral Dissertation in April 2011 with Dr. Hilliker-

1 VanStrander. The University denies the remaining allegations in this Paragraph.

2 15. Answering paragraph 15 of Plaintiff's Complaint, the University admits that the  
3 Plaintiff took a course entitled DOC/733B Doctoral Dissertation in June 2011 with Dr. Hilliker-  
4 VanStrander. The University denies the remaining allegations in this Paragraph.

5 16. The University admits the allegations contained in Paragraph 16 of Plaintiff's  
6 Complaint.

7 17. The University denies the allegations contained in Paragraph 17 of Plaintiff's  
8 Complaint.

9 18. Answering paragraph 18 of Plaintiff's Complaint, the University denies the  
10 allegation contained in the first sentence. To the extent this paragraph contains recitals of an offer  
11 to compromise the University states such inclusion violates the rules of evidence and is not  
12 receivable as an admission of the validity or invalidity of the claim and it does not require a  
13 response from Defendants. The University denies the remaining allegations in this Paragraph.

14 19. Answering paragraph 19 of Plaintiff's Complaint, the University states that to the  
15 extent this paragraph contains recitals of an offer to compromise such inclusion violates the rules  
16 of evidence and is not receivable as an admission of the validity or invalidity of the claim and it  
17 does not require a response from Defendants. The University denies the remaining allegations in  
18 this Paragraph.

19 20. Answering paragraph 20 of Plaintiff's Complaint, the University states that to the  
20 extent this paragraph contains recitals of an offer to compromise such inclusion violates the rules  
21 of evidence and is not receivable as an admission of the validity or invalidity of the claim and it  
22 does not require a response from Defendants. The University denies the remaining allegations in  
23 this Paragraph.

24 21. Answering paragraph 21 of Plaintiff's Complaint, the University admits that  
25 Plaintiff selected Dr. Matthew D. Gonzalez as a new Chairperson for his Dissertation Committee  
26 in December 2011.

27     ///

28     ///

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1       22. Answering paragraph 22 of Plaintiff's Complaint, the University admits that  
2 Plaintiff's dissertation was not approved. The University denies the remaining allegations in this  
3 Paragraph.

4       23. The University is without sufficient knowledge or information to form a belief as  
5 to the truth of the allegations contained in this paragraph, and on that basis denies the same.

6       24. Answering paragraph 24 of Plaintiff's Complaint, the University is without  
7 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
8 this paragraph, and on that basis denies the same.

9       25. Answering paragraph 25 of Plaintiff's Complaint, the University is without  
10 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
11 this paragraph, and on that basis denies the same.

12       26. Answering paragraph 26 of Plaintiff's Complaint, the University states that to the  
13 extent this paragraph contains recitations of what is stated in a "formal letter" and Plaintiff's  
14 interpretation of those documents, it does not require a response from the University as the  
15 document speaks for itself. The University is without sufficient knowledge or information to form  
16 a belief as to the truth of the allegations contained in this paragraph, and on that basis denies the  
17 same.

18       27. The University admits the allegations contained in Paragraph 27 of Plaintiff's  
19 Complaint.

20       28. Answering paragraph 28 of Plaintiff's Complaint, the University admits that  
21 Plaintiff spoke with Stephanie Neuhring in the Office of Dispute Management and made requests  
22 related to his coursework with Dr. Hilliker-VanStrander and that Ms. Neuhring advised him to  
23 submit his request in writing so that it could be reviewed further. The University denies the  
24 remaining allegations in this Paragraph.

25       29. Answering paragraph 29 of Plaintiff's Complaint, the University admits that  
26 Plaintiff "submitted his Doctoral Dissertation" as part of the approval process. The University is  
27 without sufficient knowledge or information to form a belief as to the truth of the allegations  
28 contained in this paragraph, and on that basis denies the same.

1           30. Answering paragraph 30 of Plaintiff's Complaint, the University states that to the  
2 extent this paragraph contains recitations of what is stated in an e-mail exchange and Plaintiff's  
3 interpretation of that e-mail exchange, it does not require a response from the University as the  
4 document speaks for itself. The University is without sufficient knowledge or information to form  
5 a belief as to the truth of the allegations contained in this paragraph, and on that basis denies the  
6 same.

7           31. Answering paragraph 31 of Plaintiff's Complaint, the University states that to the  
8 extent this paragraph contains recitations of what is stated in correspondence and Plaintiff's  
9 interpretation of that correspondence, it does not require a response from the University as the  
10 document speaks for itself. The University is without sufficient knowledge or information to form  
11 a belief as to the truth of the allegations contained in this paragraph, and on that basis denies the  
12 same.

13           32. Answering paragraph 32 of Plaintiff's Complaint, to the extent this paragraph  
14 contains recitals of an offer to compromise the University states such inclusion violates the rules  
15 of evidence and is not receivable as an admission of the validity or invalidity of the claim and it  
16 does not require a response from Defendants.

17           33. Answering paragraph 33 of Plaintiff's Complaint, the University states that to the  
18 extent this paragraph contains recitations of what is stated in correspondence and Plaintiff's  
19 interpretation of that correspondence, it does not require a response from the University as the  
20 document speaks for itself.

21           34. Answering paragraph 34 of Plaintiff's Complaint, the University admits the  
22 Plaintiff's dissertation was not approved on January 19, 2013. The University denies the  
23 remaining allegations in this Paragraph.

24           35. The University denies the allegations contained in Paragraph 35 of Plaintiff's  
25 Complaint.

26           36. The University denies the allegations contained in Paragraph 36 of Plaintiff's  
27 Complaint.

28           ///

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1           37. The University denies the allegations contained in Paragraph 37 of Plaintiff's  
2 Complaint.

3           38. The University denies the allegations contained in Paragraph 38 of Plaintiff's  
4 Complaint.

5           39. The University denies the allegations contained in Paragraph 39 of Plaintiff's  
6 Complaint.

7           40. The University denies the allegations contained in Paragraph 40 of Plaintiff's  
8 Complaint.

9           41. Answering paragraph 41 of Plaintiff's Complaint, the University is without  
10 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
11 this paragraph, and on that basis denies the same.

12           42. The University denies the allegations contained in Paragraph 42 of Plaintiff's  
13 Complaint.

14           43. Answering paragraph 43 of Plaintiff's Complaint, the University is without  
15 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
16 this paragraph, and on that basis denies the same.

17           44. Answering paragraph 44 of Plaintiff's Complaint, the University is without  
18 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
19 this paragraph, and on that basis denies the same.

20           45. Answering paragraphs 45 of Plaintiff's Complaint, the University is without  
21 sufficient knowledge or information to form a belief as to the truth of the allegations contained in  
22 this paragraph, and on that basis denies the same.

23           46. The University denies the allegations contained in Paragraph 46 of Plaintiff's  
24 Complaint.

25           47. The University denies the allegations contained in Paragraph 47 of Plaintiff's  
26 Complaint.

27           48. The University denies the allegations contained in Paragraph 48 of Plaintiff's  
28 Complaint.

49. Answering paragraphs 49 of Plaintiff's Complaint, the University is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph, and on that basis denies the same.

50. The University denies the allegations contained in Paragraph 50 of Plaintiff's Complaint.

## **CLAIMS FOR RELIEF**

## A. BREACH OF CONTRACT

51. The University denies the allegations contained in Paragraph 51 of Plaintiff's Complaint.

## B. BREACH OF IMPLIED-IN-FACT CONTRACT

52. The University denies the allegations contained in Paragraph 52 of Plaintiff's Complaint.

### C. BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

53. The University denies the allegations contained in Paragraph 53 of Plaintiff's Complaint.

#### D. PROMISSORY ESTOPPEL

54. The University denies the allegations contained in Paragraph 54 of Plaintiff's Complaint.

## E. INTENTIONAL INFILCTION OF EMOTIONAL UPSET

55. The University denies the allegations contained in Paragraph 55 of Plaintiff's Complaint.

## F. FRAUD

56. The University denies the allegations contained in Paragraph 56 of Plaintiff's Complaint.

**REQUEST FOR JURY TRAIL**

The unnumbered paragraph under the heading “Request For Jury Trial” does not require a response from the University.

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## RELIEF

Answering paragraphs 1, 2, and 3 of the Relief section of Plaintiff's Complaint, the University denies that it has caused or contributed to any of Plaintiff's claim or that Plaintiff is entitled to any damages from the University.

Apollo Group denies all other allegations not specifically admitted to herein.

## **AFFIRMATIVE DEFENSES**

## **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's "Claims for Relief" fail to state a claim against Apollo Group upon which relief can be granted.

## SECOND AFFIRMATIVE DEFENSE

The University is informed and believes and thereon alleges that Plaintiff's claims for damages are barred as a result of the failure to satisfy conditions precedent to bring the claims at issue.

### THIRD AFFIRMATIVE DEFENSE

The conduct Plaintiff alleges was the intentional conduct of a third party, not the conduct of Apollo Group, its supervisors, or any employee acting within the course and scope of their employment.

## FOURTH AFFIRMATIVE DEFENSE

Plaintiff failed to use reasonable means to avoid or mitigate his alleged damages.

## FIFTH AFFIRMATIVE DEFENSE

Plaintiff unreasonably failed to take advantage of preventive or corrective opportunities provided by the University and otherwise failed to avoid harm.

## SIXTH AFFIRMATIVE DEFENSE

Some of Plaintiff's Claims are barred by the applicable statute of limitations.

## SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's own conduct, and/or the conduct of others for whom the University is not responsible, caused or contributed to Plaintiff's damages, if any.

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## EIGHTH AFFIRMATIVE DEFENSE

The damages suffered by Plaintiff, if any, were the direct and proximate result of the negligence of parties, persons, corporations or entities other than the University, and the liability of the University, if any, is limited in direct proportion to the percentage of fault actually attributed to the University.

## NINTH AFFIRMATIVE DEFENSE

Some of Plaintiffs' "claims for relief" are barred because of plaintiffs' failure to plead them with particularity as required.

## TENTH AFFIRMATIVE DEFENSE

All of the actions by the University were taken in good faith and the exercise of business judgment in the operation of its business and not for any other purpose.

## **ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to exhaust requisite administrative remedies.

## **TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff did not follow internal complaint procedures.

## THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff has thus far failed to adequately perform and meet the reasonable academic standards and qualifications required by the University.

## FOURTEENTH AFFIRMATIVE DEFENSE

All educational decisions regarding or affecting Plaintiff were based upon legitimate, educational, academic, and otherwise reasonable business based on the University's academic standards and educational reasons.

## FIFTEENTH AFFIRMATIVE DEFENSE

Damages for Plaintiff's claims, if any, are limited by the terms of the Enrollment Agreement that Plaintiff signed.

## SIXTEENTH AFFIRMATIVE DEFENSE

Any alleged emotional distress claimed by Plaintiff was not so intense or of such duration that no ordinary person should be expected to endure it.

## SEVENTEENTH AFFIRMATIVE DEFENSE

Any emotional distress suffered or claimed to have been suffered by Plaintiff was not reasonable or justified under the circumstances.

## EIGHTEENTH AFFIRMATIVE DEFENSE

There exists no proximate causation between any alleged act or alleged breach of duty by the University and Plaintiff's claimed injuries, if any.

## NINETEENTH AFFIRMATIVE DEFENSE

Pursuant to Fed. R. Civ. P. 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend this Answer to allege additional affirmative defenses if subsequent investigation warrants.

WHEREFORE, Defendant Apollo Group prays as follows:

1. That Plaintiff take nothing by reason of his Complaint on file herein;
2. The University be dismissed with costs and attorneys' fees incurred herein; and
3. For such other and further relief as it may be adjudged entitled.

Dated: May 16<sup>th</sup>, 2013

SNELL & WILMER L.L.P.

By: /s/ Paul Swen Prior

Paul Swen Prior

Nevada Bar No. 9324

3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169

Attorney for Defendants

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **ANSWER** by the method indicated below:

<u>                  </u>	CM/ECF	<u>                  </u>	E-Mail
<u>XXXXXX</u>	U.S. Mail	<u>                  </u>	Federal Express
<u>                  </u>	Facsimile Transmission	<u>                  </u>	Hand Delivery
<u>                  </u>	Electronic Service	<u>                  </u>	

and addressed to the following:

Jaime Reborn  
4759 Arroyo Seco Drive  
Las Vegas, NV 89119  
Telephone: (702) 773-2642  
Plaintiff Pro Se

DATED this 16th day of May, 2013.

Wendy S. Rudnick  
An Employee of Snell & Wilmer L.L.P.

17128346

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